IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 478 OF 2003

IN

SUMMARY SUIT NO. 553 OF 2003

Bobcards Limited .. Plaintiffs
versus
K.V. Gopinath .. Defendant

...

Mr.Iqbal Panjwani for the plaintiff.
Mr.Rajesh Revankar i/b Mulla & Mulla for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 2nd March 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. The learned counsel for the defendant reports no instructions.

2. The learned counsel for the plaintiff hands in affidavit of service and list of documents. Affidavit and the documents are taken on record. The documents are colly. marked "A" for identification.

3. Despite service of Summons for Judgement, the defendant has not applied for leave to defend nor has he filed any affidavit in reply. In the

circumstances, the averments made in the plaint and Summons for Judgement are deemed to be admitted. The plaintiff is entitled to a decree under Order 37 Rule 3(6) of the Code of Civil Procedure.

4. Perused the plaint and the documents. The defendant obtained a credit card facility from the plaintiff. By using the credit card, the defendant availed the facility of credit but failed and neglected to make the payment. A statement of account shows the amount due. Despite a demand notice, the defendant failed and neglected to make the payment. I am satisfied that the plaintiff is entitled to a decree under Order 37 Rule 3(6) of the Code of Civil Procedure. Hence, Summons for Judgement is made absolute and the suit of the plaintiff is decreed as follows:

5. The defendant shall pay to the plaintiff a sum of Rs.1,01,948.28 together with interest thereon at 9% p.a. from the date of the suit till payment and all costs of the suit.

6. Issue Court fee refund certificate as per rules.

D.G. KARNIK, J